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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORLAND DIVISION

THE RINGSIDE, INC., an Oregon corporation,

Plaintiff,

v.

THE CINCINNATI CASUALTY COMPANY, an Ohio corporation,

Defendant.

Civil No.: 3:20-cv-01709

NOTICE OF REMOVAL

PURSUANT TO 28 U.S.C. §§ 1441 AND 1446

MULTNOMAH COUNTY CIRCUIT COURT NO. 20CV30521

Defendant The Cincinnati Casualty Company (“Cincinnati”) submits this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446(a) for the purpose of removing the above-entitled action from the Circuit Court of the State of Oregon for the County of Multnomah (“Multnomah County Circuit Court”) to the United States District Court for the District of Oregon, and states in support of this removal as follows.

I. ENTITLEMENT TO REMOVAL

On or about September 3, 2020, Cincinnati was served with copies of Summons and Complaint in an action filed by plaintiff The Ringside, Inc. (“Plaintiff”), entitled *The Ringside, Inc. v. The Cincinnati Casualty Company*, Case No.: 20CV30521, filed in Multnomah County Circuit Court (the “Complaint”). To Cincinnati’s knowledge, no further proceedings have occurred in this action. This Notice of Removal is filed within thirty days after Cincinnati received service of the Complaint, as required by 28 U.S.C. § 1446(b).

This is a civil action of which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court by Cincinnati pursuant to the provisions of 28 U.S.C. § 1441, in that it is a civil action between citizens of different states, and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

A corporation is a citizen of any state by which it has been incorporated and of the state where it has its principal place of business. 28 U.S.C. § 1332(c); *see Davis v. HSBC Bank Nevada, N.A.*, 557 F.3d 1026, 1028 (9th Cir. 2009). There are two tests that the Ninth Circuit applies to determine the principal place of business of a corporation – the “place of operations” test and the “nerve center” test. *Davis*, 557 F.3d at 1028. Under the “place of operations” test, the principal place of business of a corporation is the state with “a substantial predominance of corporate operations.” *Id.* If there is no state that has a “substantial predominance of corporate operations,” the courts apply the “nerve center” test, which determines the principal place of the corporation in the state where “the majority of its executive and administrative functions are performed.” *Id.*

As alleged in the Complaint, Plaintiff is an Oregon corporation with its principal place of business in Portland, Oregon. *See* Complaint at ¶ 1. Thus, Plaintiff is a citizen of the State of Oregon. Cincinnati is now, and at all times referred to in the Complaint, a citizen of the State of Ohio with its principal place of business in the State of Ohio. Therefore, the parties satisfy the requirements for diversity of citizenship under 28 U.S.C. § 1332.

Under 28 U.S.C. § 1332(a), diversity subject matter jurisdiction requires that the matter in controversy “exceed[] the sum or value of \$75,000, exclusive of interest and costs.” 28 U.S.C.A. § 1332(a). This requirement is met. A notice of removal “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold,” *Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 89 (2014), and if contested, a court will determine whether the threshold is met by a preponderance of the evidence. *Id.* at 88; *see also* *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413, 416 (9th Cir. 2018). In declaratory relief actions, “the amount in controversy is measured by the value of the object of the litigation.” *Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770, 775 (9th Cir. 2017) (quoting *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002)). Such value is determined by “the pecuniary result to either party which the judgment would directly produce.” *Id.* (quotation marks and citation omitted). Here, the Complaint states that Plaintiff’s claims amount to at least \$236,500 in value. *See* Complaint at ¶ 51; *see also* Complaint’s Prayer for Relief at ¶ 1.

Under 28 U.S.C. § 1441, this Court is the appropriate forum in which to file this Notice of Removal because the United States District Court for the District of Oregon, Portland Division is the federal judicial district embracing Multnomah County, Oregon, the county in which the underlying action was filed.

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II. PROCESS AND PLEADINGS

A copy of all process, pleadings, and orders served on Cincinnati in the underlying action are attached to this Notice of Removal as Exhibit A, as required by 28 U.S.C. § 1446(a).

III. FILING IN MULTNOMAH COUNTY CIRCUIT COURT

Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be promptly given to all adverse parties and shall be filed with the clerk of the Multnomah County Circuit Court.

WHEREFORE, Cincinnati respectfully requests that this action be removed to and proceed hereafter in this Court, and that no further proceedings be had in Multnomah County Circuit Court.

DATED: October 2, 2020

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